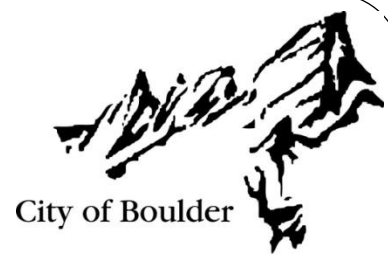


Executive Sessions

July 22, 2014

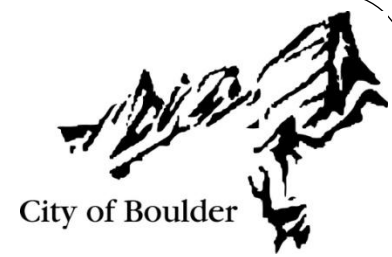
Current Charter



Section 9 Provides:

All meetings of the council or
committees thereof shall be
public.

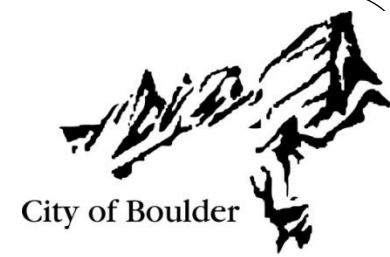
State Law



Allows for Non-Public Executive Sessions:

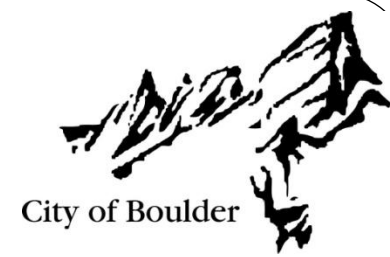
- Purchase, sale or lease of real estate
- Attorney-client communications
- Matters that must be kept confidential under state or federal law
- Specialized details of security arrangements
- Negotiations
- Personnel matters
- Consideration of documents exempt from the Colorado Open Records Act

State Law Procedure



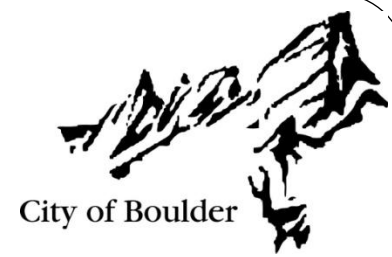
- Executive sessions can only be at regular or special meetings of the council.
- The minutes of the meeting must reflect that the council went into executive session and the statutory reason for going into executive session.
- The motion to go into executive session must be approved by two-thirds of the quorum present.
- No policy, position, resolution, rule, regulation or formal action may occur in the executive session. C.R.S. 24-6-402(4).
- The executive session must be recorded electronically.

State Law - Recordings



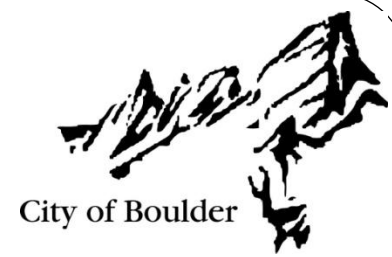
- The separate recording for the executive session must include the specific subparagraph of the statute under which the executive session is authorized.
- No recording if the executive session constitutes privileged attorney-client communication.
- A court can order any portion of the record of any non-authorized discussion to be open to public inspection.
- The recording of the executive session must be retained for at least 90 days after the date of the executive session.

What is the Problem?



- Council members are limited in their ability to provide guidance to staff on confidential matters.
- This empowers staff to make decisions, which should be based on council direction.

Current System



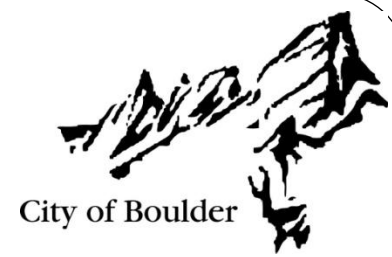
- The City Attorney provides confidential information in writing to council members.
- Staff meets with council members in groups of one or two.
- There is no discussion among the council as a body.

Current System

City of Boulder

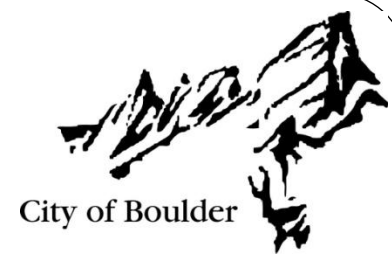


Important!



- There is some information which will never be made public:
 - The price that the city is willing to pay for something
 - Legal risks
 - Litigation strategy
- The lack of executive sessions does not make these matters public. It just limits council's ability to influence them.

Staff Proposal



- Allow Executive Sessions for matters relating to the creation of a municipal electrical utility:
 - Discussion of legal advice
 - Discussion of negotiation strategy

Limitations in the Staff Proposal

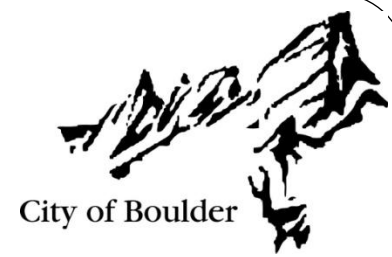
City of Boulder



- All executive sessions would be conducted according to state law.
- No final action would be taken in an executive session.
- An executive session would be initiated only by a 2/3 vote of council members present.
- All executive sessions would be recorded.
- Any recording of an executive session would be released to the public only upon a ***unanimous*** vote of the city council or as otherwise provided by state law.
- The authority to hold executive sessions would expire on December 31, 2017.

Questions?

Questions for Council



1. Does Council agree with the limitation in subject matter?
2. Does Council agree with limiting the procedure to that allowed by state law?
3. Does Council agree with allowing council to release recordings through a unanimous vote?
4. Does Council agree with the sunset provision?